

REMARKS

Summary

Claims 1-3, 5, 8-16 and 20 stand in this application. Claims 4, 6-7 and 17-19 were previously canceled without prejudice. Claims 1, 9 and 14 have been amended. No new matter has been added. Favorable reconsideration and allowance of the standing claims are respectfully requested.

Although Applicant disagrees with the broad grounds of rejection set forth in the Office Action, Applicant has amended claims 1, 9 and 14 in order to facilitate prosecution on the merits.

Claim Rejections - 35 U.S.C. § 103

Claims 1, 5, 7, 9, 13, 14 and 19 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over United States Patent Publication No. 2004/0073692 to Gentle et al. (“Gentle”) in view of United States Patent No. 7,346,005 to Dowdal (“Dowdal”). Claims 2, 3, 12, 15 and 16 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Gentle in view of Dowdal as applied to claims 1, 9 and 14 above in view of United States Patent No. 6,865,162 to Clemm (“Clemm”). Claims 8, 10, 11 and 20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Gentle in view of Dowdal as applied to claim 9 above in view of United States Patent No. 5,920,834 to Sih et al. (“Sih”).

Applicant respectfully traverses the rejections, and requests reconsideration and withdrawal of the obviousness rejections.

Applicant respectfully submits that claims 1-3, 5, 8-16 and 20 define over the cited references whether taken alone or in combination. For example, amended independent claim 1 recites the following language, in relevant part:

receiving a plurality of packets with audio information;
determining by a voice activity detector whether said audio information represents voice information;
buffering said audio information in a jitter buffer during said determination; measuring an average packet delay time by said jitter buffer; and
adding said average packet delay time to each of the plurality of packets prior to sending the plurality of packets to a voice codec....

According to the Office Action, the above recited language is disclosed by the combination of Gentle and Dowdal. Applicant respectfully disagrees.

Applicant respectfully submits that he has been unable to locate any teaching in the cited references directed to performing the activities of the VAD and the jitter buffer in parallel. More particularly, as recited in claim 1, the VAD determines whether the audio information represents voice information, and the jitter buffer buffers the audio information during said determination. Applicant submits that both Gentle and Dowdal, arguably, teach a serial approach to processing and buffering the information. Applicant submits that this is clearly different than the above recited language of amended independent claim 1.

Applicant respectfully submits that he has also been unable to locate any teaching in the cited references directed to “adding said average packet delay time to each of the plurality of packets prior to sending the plurality of packets to a voice codec” as recited in amended independent claim 1. Consequently, Gentle and Dowdal, whether taken alone

or in combination, fail to disclose, teach or suggest every element recited in claim 1.

Furthermore, Applicant submits that Clemm and Sih fail to remedy the above identified deficiencies of Gentle and Dowdal.

For at least these reasons, Applicant submits that claim 1 is patentable over the cited references, whether taken alone or in combination. In addition, claims 9 and 14 have been amended to recite features similar to those recited in claim 1. Therefore, Applicant respectfully submits that claims 9 and 14 are not obvious and are patentable over the cited references for reasons analogous to those presented with respect to claim 1. Accordingly, Applicant respectfully requests removal of the obviousness rejection with respect to claims 1, 9 and 14.

Furthermore, if an independent claim is non-obvious under 35 U.S.C. § 103, then any claim depending therefrom is non-obvious. *See* MPEP § 2143.03, for example. Accordingly, Applicant respectfully requests withdrawal of the obviousness rejection with respect to claims 2-3, 5, 8, 10-13, 15-16 and 20 that depend from claims 1, 9 and 14 respectively, and therefore contain additional features that further distinguish these claims from the cited references.

Conclusion

It is believed that claims 1-3, 5, 8-16 and 20 are in condition for allowance.

Accordingly, a timely Notice of Allowance to this effect is earnestly solicited.

Applicant does not otherwise concede, however, the correctness of the Office Action's rejection with respect to any of the limitations of the independent claims and dependent claims discussed above. Accordingly, Applicant hereby reserves the right to make additional arguments as may be necessary to further distinguish the claims from the cited references, taken alone or in combination, based on additional features contained in the independent or dependent claims that were not discussed above. A detailed discussion of these differences is believed to be unnecessary at this time in view of the basic differences in the independent claims pointed out above.

The Examiner is invited to contact the undersigned to discuss any matter concerning this application.

The Office is hereby authorized to charge any additional fees or credit any overpayments under 37 C.F.R. § 1.16 or § 1.17 to deposit account 50-4238.

Respectfully submitted,
KACVINSKY LLC

/John F. Kacvinsky/

John F. Kacvinsky, Reg. No. 40,040
Under 37 CFR 1.34(a)

Dated: March 30, 2009

KACVINSKY LLC
C/O CPA Global
P.O. Box 52050
Minneapolis, MN 55402
(724) 933-5529